

**Legislative Process Advisory Committee
Public Hearing
October 5, 2004**

**Testimony
of
Lieutenant Governor Kevin B. Sullivan**

Good morning. I am Lieutenant Governor Kevin Sullivan and this is my first opportunity to testify since taking office last July. It's good to see old friends and I do appreciate your accommodating the fact that it was not possible for me to appear before you last time due to illness.

As you know, the work of this Advisory Committee was one of my last proposals when I served as Senate Chair of the Joint Committee on Legislative Management. In addition, House Minority Leader Ward offered some challenging suggestions for reform awhile back. Therefore, I am grateful to the six legislative leaders and to each of you that this process is going forward now.

As the “people’s branch” of state government, the General Assembly always struggles to find the right balance between procedures that provide public input and rank-and-file participation but also provide meaningful information and timely decision-making. As we all learned not that long ago, that balance can be most elusive when fiscal hard times also harden the political arteries. In addition, recent executive branch corruption raises the expectation of greater transparency in all branches of state government.

Therefore, let me offer a few recommendations for your consideration based on my now nearly 18 years experience serving in the General Assembly as well as many years working in the state legislative process before that:

- **Budget adoption**, including action on revenue, is the most important decision every session. No matter the circumstances, public every confidence and every aspect of the process suffers when there is budget gridlock that requires seemingly endless leadership negotiations and one or more special sessions. Before we forget recent history so that we can repeat it again, four key changes are needed.
 - Provide the General Assembly, through the non-partisan Office of Fiscal Analysis, with an independent capacity for revenue estimation and incidence analysis.
 - Other than for the first fiscal year of a biennium, prohibit any bill by the Governor, any legislator or any legislative committee that proposes expenditures for a new program or service unless a budget reduction of equivalent amount is also proposed.

- Provide that not less than 60 days prior the Governor's annual budget message, the two fiscal committees shall meet jointly to (1) review presentations by the Secretary of the Office of Policy and Management and by the Office of Fiscal Analysis that detail projections of current fiscal year and next fiscal year expenditures and revenues, and (2) adopt balanced total expenditure and total revenue targets to guide budget development for the next fiscal year.
- If a balanced budget of expenditures and revenues has not been enacted in any regular legislative session within 30 days prior to constitutional adjournment, enable the President Pro Tempore and Speaker of the House to appoint a small, special joint conference committee to report within 15 days, during which time all other action by the House and Senate shall be suspended, a single budget bill that shall be emergency certified for immediate action by the House and Senate.
- **Legislative committees** are supposed to be the workhorses of the legislative process and are often the place where partisanship matters less than ideas. Lately, however, two trends are evident. Overall legislative leadership tends to be too little involved in the beginning of the committee process and too much involved when it's over. This is especially true when it comes to the two fiscal committees. At the same time, committees have become more like special interests than decision-makers. Too much time is spent in public hearings and too little on making choices. Too many bills are reported out of committees, especially when too much is left to the end of the committee process. And much of the work done in committee is then

bottled up in other committees or simply never taken up by both chambers.

- Reduce the number of legislative committees, including select committees.
- More clearly define exclusive committee jurisdictions, except for the two fiscal committees.
- Allow the option of structured and time-limited public hearings to satisfy legislative due process along the lines of federal congressional select hearing procedures.
- Encourage committees to hold hearings jointly where the subject matter will require multiple committee action.
- Require, to the maximum extent possible, that hearings be organized topically by subject matter.
- Require at least 5 days prior Bulletin and on-line notice for committee hearings.
- Require at least 48 hours prior Bulletin and on-line notice for committee meetings.
- Prohibit multiple sign-up for public hearings.
- Provide remote on-line sign-up for committee hearings up to 24 hours prior and in-person on-line sign-up up to 2 hours prior, but develop a standard computer program to register sign-ups and produce a random order list that is part of the public record and may not be modified.
- Clearly inform the public and strictly limit the first two hours of public hearings to legislative leaders and state agency heads only.
- Except for the two fiscal committees and the Judiciary Committee, shorten the periods for bills to be raised, committee bills to be drafted and final action to be taken in order to allow more time for referrals and floor action.

- **Floor action** will always be more about positioning for votes rather than debate but the process can still be better disciplined and more transparent to the public. Better committee procedures and decision-making can really improve the quality and character of floor action, especially more limited use of “emergency certification” directly for floor action. So can more attention to scheduling and less delay. But no matter what formal changes are made in the process, the ongoing attention and cooperation of the 6 legislative leaders still makes all the difference.
 - Appoint a Rules Committee for each chamber that shall, at the request of the Majority Leader and Minority Leader, schedule the date, limit the duration of debate and allocate time for debate on any bill or bills, unless waived by majority vote of the members present and voting.
 - Prohibit holding sessions between 12:00 a.m. and 10:00 a.m. without the consent of a majority of the members present and voting.
 - Prohibit action (including emergency certification but excluding inclusion in the principal appropriations, revenue and bond bills) on any amendment the content of which has (1) previously rejected by vote of the primary committee of cognizance or (2) not been subject to public hearing, without the consent of 60% of the members present and voting.
 - Require all amendments be filed no later than midnight prior to a session day, except as may be permitted by written consent of the Majority Leader and Minority Leader no later than noon of a session day.

- Prohibit initial final action in either chamber within one week of constitutional adjournment on any bill that originates in that chamber, except as may be required to implement the budget act or revenue act.
- **Performance measurement and accountability** remain elusive. Yet each should be at the heart of government as a necessary good, not a necessary evil. Far more than legislating and incrementally financing, evaluation and judgment that sets and sticks to priorities that make a difference should be most important work of those who represent the public good and the public interest. Buzzwords, perfunctory or mechanical processes, and even statutory mandates are of little use without real consequences. Agency performance measures have improved and the Legislative Program Review and Investigations Committee does a better job than ever. But neither is useful if no one is using these tools to make choices. If there is one frustration that remains constant in my experience of state government to this day, it's the absence of qualitative and quantitative measurement that actually substitutes for log-rolling by each branch.
 - Sunset our “sunset” laws that have always been trivial, mechanical and ignored.
 - Empower bipartisan legislative research, fiscal analysis and program review with better resources and connect each more evaluatively into the budget process.
 - Require every state agency annually to re-justify and report qualitatively and quantitatively on the effectiveness and efficiency of every major state expenditure that's been ongoing for 5 years or more.

- Develop a “performance note” identifying expected qualitative and quantitative outcomes for Legislative Program Review and Investigations staff to include with every bill before action in the Senate or House.

I hope these thoughts will be helpful to you and sincerely appreciate your consideration.